

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

THE PENNSYLVANIA STATE  
UNIVERSITY,

Plaintiff,

v.

VINTAGE BRAND, LLC;  
SPORTSWEAR, INC., d/b/a PREP  
SPORTSWEAR; CHAD  
HARTVIGSON; ERIK  
HARTVIGSON; and MICHELLE  
YOUNG,

Defendants.

No. 4:21-CV-01091

(Chief Judge Brann)

**ORDER**

**FEBRUARY 6, 2024**

In accordance with the accompanying Memorandum Opinion, **IT IS  
HEREBY ORDERED** that:

1. Vintage Brand's *Daubert* motion (Doc. 93) is **GRANTED** and David Franklyn is prohibited from testifying at trial regarding Survey 1;
2. Penn State's *Daubert* motion (Doc. 95) is **DENIED**;
3. Vintage Brand's motion to strike (Doc. 135) is **GRANTED** as to Paragraphs 1, 5, and 114 of the SUMF, and Paragraph 15 and the first sentence of Paragraph 6 of Petulla's Declaration, but is **DEFERRED** in all other respects;
4. Penn State's motion to strike (Doc. 141) is **GRANTED** as to Paragraphs 16 and 25 of Chad Hartvigson's Declaration, but **DENIED** in all other respects;

5. Vintage Brand's second motion to strike (Doc. 159) is **GRANTED** to the extent that the sentence "[t]he image on the left was most likely sourced from a decal created by a third party around the early 1950s" is stricken from Paragraph 5 of Hartvigson's Supplemental Declaration, but is **DENIED** in all other respects;
6. Vintage Brand's motion for summary judgment (Doc. 110) is **GRANTED** in part and **DENIED** in part:
  - a. The motion is granted as to Counts 2, 3, 4, 5, and 6 of the second amended complaint, and judgment is entered in Vintage Brand's favor as to those counts; and
  - b. The motion is denied as to Counts 1 and 7 of the second amended complaint, and as to Counterclaim One.
7. Penn State's motion for summary judgment (Doc. 113) is **GRANTED** in part and **DENIED** in part;
  - a. The motion is granted as to Vintage Brand's Affirmative Defenses Seven and Eight, but only as to incontestable registrations; and
  - b. The motion is denied in all other respects.
8. The Court will schedule a telephonic status conference by separate Order.

BY THE COURT:

*s/ Matthew W. Brann*

Matthew W. Brann

Chief United States District Judge